

No. 9(1)82-6 Lab./6230.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Auto Ignition Pvt. Limited, Plot No. 6, Sector-24, Faridabad :—

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 132 of 1982

between

SHRI PREM SHANKAR, WORKMAN AND THE MANAGEMENT OF M/S AUTO IGNITION
PVT. LIMITED., PLOT NO. 6, SECTOR-24, FARIDABAD

Present.—

Shri K. P. Agarwal for the management.

Nemo for the workman.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Prem Shankar and the management of M/s Auto Ignition Pvt. Limited, Plot No. 6, Sector-24, Faridabad, by order No. ID/PD/47/82/9753, dated 27th April, 1982, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of service of Shri Prem Shankar was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties. The management appeared but the workman did not appear despite service. The case was ordered to be dismissed for non-prosecution by the workman. Therefore, I dismiss the case for non-prosecution by the workman.

M. C. BHARDWAJ,

Dated the 7th June, 1982.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 596, dated the 11th June, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6 Lab./6231.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s (i) Hanuman Metal Industries, Jagadhri, (ii) Hanuman Rolling Mills & Hanuman Gate, Jagadhri :—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 36/1982

between

SHRI SAWANY RAM WORKMAN AND THE MANAGEMENT OF M/S (i) HANUMAN METAL
INDUSTRIES, JAGADHRI, (ii) HANUMAN ROLLING MILLS HANUMAN GATE,
JAGADHRI

Present :—

Shri Inder Sain for the workman.

Nemo, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Sawany Ram and the management of M/s. (i) Hanuman Metal Industries, Jagadhri, (ii) Hanuman Rolling Mills Hanuman Gate, Jagadhri, by order No. ID/YMN/187/81/2142, dated 12th January, 1982, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Sawany Ram was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were sent to the parties who appeared. On the next date the workman was present but the management did not appear. Therefore, the case was fixed for *ex parte* evidence of the workman. The concerned workman in evidence examined himself and deposed that he worked in Hanuman Metal for the last 13 years at the salary of Rs 450 per month. The management was satisfied from his work. He was removed from service without any reason, charge-sheet and enquiry from the month of July, 1981.

Believing the *ex parte* statement of the workman, I find that the order of dismissal was wrongful. Therefore, I give my award that the workman is entitled to his reinstatement with full back wages and with continuity of service.

Dated, the 7th June, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endorsement No. 597, dated 11th June, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 9 (1) 82-6Lab/6234.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial, Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Rattan Chand-Harjas Rai (Moulding) Pvt. Ltd., Industrial Area, Faridabad:—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 315/81

between

SHRI BADRI PARSHAD WORKMAN AND THE MANAGEMENT OF M/S RATTAN CHAND
HARJAS RAI (MOULDING) PRIVATE LIMITED, 54, INDUSTRIAL AREA, FARIDABAD

Present.—

Shri Amar Singh for the workman.

Shri K. P. Agrawal for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Badri Parshad and the management of M/s Rattan Chand Harjas Rai (Moulding), Private Limited, 54 Industrial Area, Faridabad, by order No. ID/FD dated 125/81/47712, dated 17th September, 1981, to this Tribunal for adjudication in exercise of the powers conferred by clause (d) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Badri Parshad was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties, who appeared and filed their pleadings. On the pleadings of the parties following issues were framed,—*vide* my order, dated 29th January, 1982:—

- (1) Whether the workman lost his job on account of continuous absence?
- (2) Whether the termination of service of Shri Badri Parshad was justified and in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the management. On the date fixed, representative of the management made a statement that the workman had received a sum of Rs. 3,310 in settlement of dispute and all his other claims.

In view of the statement, I pass my award that the dispute has been settled by the parties and there nothing remains for adjudication.

Dated, the 10th June, 1982.

H. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

Endorsement No. 600, dated the 11th June, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 9(1)82-6Lab./6238.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Usha Spinning and Weaving Mills Ltd., Mathura Road, Faridabad:—

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL HARYANA, FARIDABAD.

Reference No. 43 of 1979

between

SHRI DEVI DYAL, AND THE MANAGEMENT OF M/S USHA SPINNING AND WEAVING MILLS, LTD., MATHURA ROAD, FARIDABAD

Present:—

Shri R. N. Rai for the management.

Nemo for the workman.

AWARD

The State Government of Haryana referred the following disputes between the workman Shri Devi Dyal and the management of M/s Usha Spinning and Weaving Mills Limited, Mathura Road, Faridabad, by order No. 167-R-76/3126, dated 19th January, 1979, to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Devi Dyal was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by my learned predecessor,—*vide* his order, dated 6th November, 1979:—

- (1) Whether the termination of services of the workman was justified and in order?
- (2) Whether the enquiry is proper and fair?

(3) Whether the workman is gainfully employed?

Management examined Shri Yash Paul Sharma as MW-1 and workman examined himself as his own witness. Issue No 2 was decided first as it was preliminary issue and the parties were called upon to lead their evidence on remaining issues. The management brought their evidence but the case was adjourned on the request of the representative of the workman. On the last date of hearing, the management objected to appearance of Shri Mohit Kumar Bhandari on the ground that he had no letter of authority from the workman. The case was adjourned for the purpose but none appeared on behalf of the workman on the adjourned date. Therefore, the case was dismissed for nonprosecution by the workman. In this circumstance, I pass my award that the workman was interested for adjudication of his dispute and not entitled to any relief.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated, the 12th June, 1982.

Endorsement No. 604, dated 12th June, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 21st July, 1982

No. 9(1)-82-6Lab./6391.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the Management of M/s Philadelphia Hospital, Ambala City :—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 71/1980

between

SHRIMATI CHAMPA RANI WORKMAN AND THE MANAGEMENT OF M/S PHILADELPHIA
HOSPITAL, AMBALA CITY

Present :—

Shri Rajeshwar Nath, for the Workman.

Nemo, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shrimati Champa Rani and the management of M/s Philadelphia Hospital, Ambala City, by order No. ID/Amb/181/80/57432, dated 21st November, 1980, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of Shrimati Champa Rani was justified and in order? If not, to what relief is she entitled?

Notices were sent to the parties who appeared and filed their pleadings. The issue under reference was put on trial,—vide my order, dated 14th May, 1981. The management examined Shri Pritam Singh, secretary as MW-1 and the claimant examined herself as her own witness. Arguments were heard.

MW-1 deposed that Shrimati Champa joined service of the management with effect from 28th May, 1976. Prior to it, she was working as a Peon in Family Planning Centre, Ambala Cantt.

This centre was run by the management but payment of salary was made by the Government. This centre was closed by the Government in 1976. Thereafter she was employed in the hospital of the management from 28th May, 1976. She is illiterate and now the management did not require her service. She was served a five months notice which was replied by her. In cross-examination, he replied that when he joined service in 1970, the concerned workman was already in service. He admitted that Ex. W-1 and W-2 were of the management. He recognised the signature of Mrs. M. O. Bear on Ex. W-3. He further replied that no compensation etc. was paid to her at the time of termination of service. He further replied that Shrimati Marshi and Sheela were employed after Shrimati Champa but they were part-time workers. He admitted as correct that concerned workman had also been working in Intensive care Unit, Nursery and Polio Pharmacy Centre. Claimant deposed that she served the management's hospital for the last 17 years. Certificate issued to her in 1966 was Ex. W-1. She had been working in Nursery, Intensive and Maternity Ward. She worked upto 30th June, 1980. She was not paid retrenchment compensation. In cross-examination she replied that she was appointed by Dr. Gibans. She did not possess the appointment letter because she had submitted the same at the time of joining duty in the beginning. She was given the post of Daice. She had read upto 5th class. She did not know English. She admitted that she had worked in Family Planning Centre but she did not know if the same was run by the State Government. She was paid her salary by the management.

On the date fixed for argument, the management was not present. Therefore, *ex parte* arguments were heard. Learned representative for workman argued that claimant had a service about 17 years at her credit. The management, while terminating her service, did not follow the Section 25-F of the Industrial Disputes Act. The junior was still working in the hospital.

I have gone through the record and find that the management had admitted the service of the claimant in the Family Planning Centre and then in its hospital. It was nor their case that her service was terminated due to any misconduct. It was also correct that no retrenchment compensation was paid to her or that she was declared surplus and procedure provided under Section 25-F was complied. Therefore, the order of the management was illegal in view of 1980 II-L&J page 72 Supreme Court and 1981 I-LLJ page 363. Therefore, consequent result was that she continued in service. So, I pass my award that the workman was entitled to her reinstatement with full back wages and with continuity of service.

Dated

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 631, dated the 18th June, 1982.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1) 82/6Lab./6392.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s K. K. Spun Pipe, Tigaon Road, Ballabgarh.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 13 of 1981

between

SHRI NAWAL RAM WORKMAN AND THE MANAGEMENT OF M/S K. K.
SPUN PIPE, TIGAON ROAD, BALLABGARH.

Present :—

Shri Darshan Singh, for the workman.
Shri R. L. Aneja, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Nawal Ram and the management of M/s K. K. Spun Pipe, Tigaon Road, Ballabgarh, by order No. ID/FD/94-30/3990, dated 22nd January, 1981, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Nawal Ram was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by my order, dated 6th April, 1981:—

- (1) Whether the workman was an employee of the management?
- (2) Whether the termination of services of Shri Nawal Ram was justified and in order? If not, to what relief is he entitled?

The workman examined Shri Itbari Shah as WW-2 and himself as WW-1. The management examined Shri Ishwar Chand partner as MW-1, Shri Om Parkash Proprietor of M/s Ravi Oil Mills as MW-2 and Shri Partap Chowkidar as MW-3.

Issue No. 1.

WW-1 deposed that he joined as helper on 1st September, 1975. His service was terminated on 14th April, 1980. He submitted demand notice on which his service was terminated, for raising his wages. He had also demanded shoes, uniform and D. A. He further stated that copy of demand notice was Ex. W-1. Ex-2 was his E. S. I. card. Ex. W-3 was copy of salary sheet which bear the signature of Gugnani. In cross examination he replied that Ex. W-3 did not contain his name. He did not know when Ex. W-2 was issued. He was not issued any appointment letter. He did not know as to how many workers used to work there. He used to get his wages on register. He had no evidence to show that he was an employee in the factory of the management. MW-1 deposed that the concerned workman had never worked for the last four years in the factory. The management had not engaged any manufacturing work since 1980. There is no other firm within the premises of the factory. In cross examination, he replied that he had leased out K. K. Spun Pipe to M/s Standard Pipe Corporation. At the time of leasing out the factory, there was no workman except a chowkidar, clerk and supervisor. There were about 7 workers in April, 1980 who left the service of their own will. E. S. I. was applicable in the factory but he could not tell E. S. I. code number. He did not know whose code number was given on Ex. W-2. But it was not of his firm. He did not know the concerned workman. MW-2 deposed that he knew the concerned workman for the last about three years. He never worked in the factory when was working there.

In the argument, learned representative for the workman argued that documents Ex. W-2 and W-3 he relied which proved that the workman an employee of the management. On the other hand, the learned representative for the management argued that burden was upon the workman to establish the employee and employer relationship but workman did not produce any evidence to establish the relationship. He contended that Ex. W-2 did not contain the name of employer and Ex. W-3 was of the month of July, 1977. It was not proved by producing subscribe of the documents. Therefore, it could not be relied upon in evidence. He cited A. I. R. Supreme Court page 1885 which held that mere marking of document as an exhibit does not dispense with its proof. He pointed out that this document even otherwise was of July, 1977.

I have gone through the file and find that the E. S. I. identity card Ex. W-2 bear the name of Nawal Ram S/o Shri Bhilu Ram. Date of entry into service was given as 3rd June, 1976. The workman fails to produce any connecting evidence to show that code number was that of the present employer. He could have summoned the records of Local E. S. I. Office but he did not do so. Presumption goes against the workman because he did not produce the available evidence in this behalf. As regards the copy Ex. W-3, I am unable to rely on it either because it has been not proved by producing the writer or signatory of the document. This issue is, therefore, decided against the workman.

The reference fails on this sole ground. Therefore, I give my award that the workman was not entitled to any relief.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 632, dated the 18th June, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.